

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2249 of 1982

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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GUJARAT RAJYA POLICE HEAD      CONSTABLE KARMACHARI MANDAL

Versus

STATE OF GUJARAT & ANR.

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Appearance:

None present for the Petitioners

MR NN PANDYA for Respondents

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 22/07/96

ORAL JUDGEMENT

1. Rule was issued in this case on 6-9-1982, but till now the reply has not been filed. The prayers of the petitioners in this Special Civil Application are as under:

(A) That this Hon'ble Court will be pleased to restrain the respondents from taking service from the constable and Head constable working in the

Gujarat Police Force for more than eight hours in a day without payment of overtime at the rate of 30 per cent of the total emoluments.

- (B) That this Hon'ble Court will be pleased to direct the Government to give to the petitioners and the Constable & Head Constables working in the Police Force of the State of Gujarat weekly holidays and holidays on national days as it is being given to other Government servants in the State;
- (C) That this Hon'ble Court will be pleased to direct the respondents to pay at the rate of 30 per cent of the total emoluments to the Constables and Head Constables in the State of Gujarat for a period of three years prior to the presentation of this petition;
- (D) That this Hon'ble Court will be pleased to restrain the respondents, their servants and Officers from taking service from the Constables and Head Constables for more than eight hours without payment of over time at the rate of 30 per cent of the total emoluments including all the allowances admissible under Rules till and pending the hearing and final disposal of this petition.
- (E) That this Hon'ble Court will be pleased to direct the respondents to make an interim payment of the overtime allowance payable to the petitioners as the Hon'ble Court may deem fit to direct till and pending the hearing and final disposal of this petition;
- (F) That this Hon'ble Court will be pleased to direct the respondents to grant the petitioners as well as Constable and Head Constables working in the State of Gujarat weekly hokidays and other national holidays as is being given to other Government employees till and pending the hearing and final disposal of this petition;
- (G) That this Hon'ble Court will be pleased to grant permission to the petitioners to prosecute this Petition under Order 1 Rule 8 for and on behalf of all the Constables and Head Constables who are members of the Gujarat Police Force under the employment of the State of Gujarat;

(H) That this Hon'ble Court will be pleased to pass such other and further order as the nature and circumstances of the case may require;

(I) That this Hon'ble Court will be pleased to provide costs of this petition;

2. The grievances of the nature made in this Special Civil Application are to be firstly agitated before the respondent, the Director General of Police and in case, the grievances are not redressed then only there may be some justification for the affected employees to approach to the appropriate legal forum available for hearing of this service matter. Precisely, it has not been done in the present case. In the present case, the writ of mandamus has been prayed for and before approaching this Court in such matters, first the individual employees should have made the demand of justice, and on refusal thereof there may be some justification to approach the appropriate legal forum for redressal of their grievance. In the present case this course has not been adopted by the petitioners. In the result, this Sp. civil application is disposed of with the direction to the respondent, Director General of Police to decide the representation if any, made by the petitioners in respect of grievances made in this Special Civil Application within a period of six months from the date of receipt of the same. It is open to the Director General of Police, if he considers necessary, to call the representative of the petitioners' union for personal hearing also. It is also open to the petitioners to make a request for given them an opportunity of personal hearing and Director General will decide it whether such opportunity should be afforded or not. In case the grievances of the petitioners are not acceptable, the Director General of Police shall pass a speaking order and the copy of the same may be sent to the petitioners. The petitioners shall make a representation, if they so want, within a period of one month from today. Rule is made absolute in the aforesaid terms with no order as to costs.

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